IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

CRP.No. 863 of 2003()

AA.9/2001 of A.A.(LAND REFORMS),TRIVANDRUM
OA.2/1999 of LAND TRIBUNAL, TRIVANDRUM

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REVN. PETITIONER:1ST RESPONDENT: APPLICANT

SIVANKUTTY, S/O. BHASKARAN,
MURIPPALATHADI, VRINDAVAN LANE, CHALAI,
THIRUVANANTHAPURAM.

BY ADV. SRI.G.P.SHINOD
SRI.RAM MOHAN.G.
SRI.MANU V.

RESPONDENTS: APLNT.& 2ND RSPDT./RSPDTS.1 & 2 AND STATE:

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1. YESUDAS, S/O. PONNAN,
MURIPPALATHADI, MADANCOIL, VRINDAVAN LANE,
CHALAI, THIRUVANANTHAPURAM.

2. G.KUMARA PILLAI,
T.C.40/1274, KURIYATHI, MANACAUD P.O.,
THIRUVANANTHAPURAM.

3. GOVERNMENT OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.SAHYSON.P.MANGUZHA FOR R3
SRI.G.S.REGHUNATH FOR R1

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 22/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.Krishnan, J.

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C.R.P.No.863 of 2003

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Dated this the 22nd day of October, 2007.

ORDER

This revision petition is preferred against the order of the Appellate Authority, Thiruvananthapuram in A.S.No.9 of 2001. The appeal was preferred by the second respondent in the application against the order of the Land Tribunal which granted an order in favour of the petitioner, that is, the present revision petitioner. The Appellate Authority reversed the finding of the Land Tribunal mainly on two grounds that with regard to the property comprised in Sy.Nos.15 and 15/1, kudikidappu right had been conferred in favour of the persons as per O.A.No.320 of 1986 and O.A.No.6 of 1987 and secondly that the building, T.C.No.39/2241 over which kudikidappu right is claimed stands in the name of Maniyan and therefore, the petitioner is not entitled to kudikidappu right.

2. Now the learned counsel for the revision petitioner would refer to the Revenue Inspector's report and would argue that the

Revenue Inspector has reported to the effect that for the neighbouring properties of the revision petitioner kudikidappu certificates had been issued. He would also draw my attention to a voters list wherein this house is certified and sub-divided into 2241/1 to 2241/3 and that the revision petitioner occupies 2241/3 for which no kudikidappu certificate had been issued. Learned counsel for the respondents would argue before me that in the kudikidappu application, the number shown is T.C.39/2241.

3. Whatever it may be there should not be any difficulty to find out which is the property for which kudikidappu is claimed. It is also not difficult to find out regarding the total extent of properties comprised in Sy.Nos.15 and 15/1 and how much extent kudikidappu had been granted. Similarly whether there is a sub-division of T.C.2241 into 2241/1 to 3 is also a matter that can be considered by the Tribunal. Over and above all these things, mere existence of a building cannot confer kudikidappu right. The person, who claims kudikidappu has to prove the necessary ingriedents as defined in Section 2(25) of the Kerala land Reforms Act.

4. So, in order to give an opportunity to the revision petitioner to prove his case, I am inclined to grant a chance and therefore, I set aside the order of both the courts below and remit back the matter to the Land Tribunal for a proper decision in the matter. The Land Tribunal shall permit both the parties to produce both documentary and additional oral evidence in support of their respective contentions and on being satisfied the court shall dispose of the matter in accordance with law. Parties are directed to appear before the Land tribunal, Thiruvananthapuram and it is directed to dispose of the matter within a time frame of four months from the date of first appearance, which is fixed as 22.11.2007.

Civil Revision Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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